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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

In re J.C., A Person Coming Under the
Juvenile Court Law.

B233655

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

(Los Angeles County
Super. Ct. No. CK86863)

Plaintiff and Respondent,

v.

IVAN M., Sr.,

Defendant and Appellant.

APPEAL from orders of the Los Angeles County Superior Court.

Debra L. Losnick, Referee. Affirmed.

Cameryn Schmidt, under appointment by the Court of Appeal, for Defendant and Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County Counsel, and Navid Nakhjavani, Deputy County Counsel, for Plaintiff and Respondent.

The juvenile dependency court issued jurisdictional findings to the effect that Ivan M., Sr. (Father) raped and sodomized and otherwise sexually abused a cohabitant's eight-year-old daughter, and also raped the child's maternal grandmother, in the family home. Based on his established sexually assaultive conduct, the court further found that Father's one-year-old son was at risk of physical harm, damage, danger, and sexual abuse. Father appeals the finding that he poses a risk to his son. We affirm.

FACTS

Father and Maria B. (Mother) are the parents of Ivan M., Jr., born in July 2010. Mother and M.C. are the parents of a girl, J.C., born in February 2003, and a boy, A.C., born October 2005. At the time the current dependency action commenced, the children lived in a home with Mother and Father, and with C.P., the maternal grandmother.

In early March 2011, the Los Angeles County Department of Children and Family Services (DCFS) received a referral that Father had sexually abused then eight-year-old J.C., and that Mother knew about the sexual abuse yet still allowed Father to live in the family home. DCFS investigated, and, on March 4, 2011, filed a petition on behalf of all three children. (Welf. & Inst. Code, § 300.)

On May 17, 2011, at the conclusion of a contested jurisdictional hearing, the juvenile dependency court sustained the following alleged counts as to Father and Ivan under Welfare and Institutions Code section 300, subdivisions (b) (failure to protect), (d) (sexual abuse) and (j) (abuse of sibling):

"On prior occasions, [Father] forcibly raped [J.C.] by placing [his] penis in [her] vagina, inflicting pain to the child. [Father] forcibly sod[o]mized [J.C.] by placing [his] penis in [her] buttocks, inflicting pain to the child. [Father] fondled [J.C.'s] vagina and buttocks. [Father] fondled, squeezed, and licked [J.C.'s] breasts, inflicting pain to the child. [Father] kissed [J.C.'s] mouth. [Father] exposed [his] erect penis to [J.C.] The mother knew of [Father]'s sexual abuse of [J.C.] and failed to take action to protect [her], in that the mother allowed [Father] to reside in the . . . home and have access to [J.C.]. The mother instructed [J.C.] not to disclose the sexual abuse . . . by [Father]. Such sexual abuse of [J.C.] on the part of [Father] and the mother's failure to protect [J.C.] endangers

[J.C.'s] physical health and safety and places [J.C.] *and [her] siblings [A.C.] and Ivan at risk of physical harm, damage, danger, sexual abuse and failure to protect.*

“[Mother] placed the children in a detrimental and endangering home environment in that the mother allowed [Father] to reside in the children’s home and have unlimited access to the children, when the mother knew that on numerous prior occasions [Father] forcibly raped the maternal grandmother, [C.P.], in the children’s home. Such a detrimental and endangering home environment established for the child[ren] by the mother endangers [their] physical health and safety, and places [them] at risk of physical harm, damage and danger.” (Italics added.)

On appeal, Father does not contest the juvenile dependency court’s findings to the extent they include a finding that he engaged in sexually abusive behavior against J.C. and C.P.

DISCUSSION

Father contends the juvenile dependency court’s jurisdictional findings must be reversed for a lack of substantial evidence as to the finding that he poses a risk to Ivan. More specifically, Father contends his sexually assaultive conduct upon his cohabitant’s eight-year-old daughter, and upon her grandmother, do not reasonably support a finding that he poses a risk of harm to his own, infant son. We disagree.

The Governing Law

A number of courts have previously dealt with this same issue and serve to guide our resolution of the current case. Accordingly, we provide here a brief overview of those cases to guide our subsequent analysis.

In *In re Joshua J.* (1995) 39 Cal.App.4th 984, the Fourth District Court of Appeal held that a father who sexually abused a six-month-old boy reasonably could be found to pose a risk of sexual abuse to the father’s newborn son. (*Id.* at p. 987.) The finding was inferentially supported not only by the nature of the abuse, but also by evidence showing that the father suffered from serious mental problems. (*Id.* at p. 987, fn. 3.)

In *In re Rubisela E.* (2000) 85 Cal.App.4th 177, Division Two of our court held that a father who engaged in “sexual abuse on multiple occasions” with his 13-year-old

daughter, “including asking the child to orally copulate [him],” inferentially supported a finding that the father posed a risk to his 9-year-old daughter because it was “reasonable for the juvenile court to determine that in [the 13-year-old’s] absence, [the father was] likely to focus on his only other daughter.” (*Id.* at pp. 193, 197.)

In *In re Karen R.* (2001) 95 Cal.App.4th 84 (*Karen R.*), Division Three of our court held that a father who has committed two incidents of forcible incestuous rape of his own daughter when she was 13 years old reasonably could be found “to be so sexually aberrant” that the siblings of the victim, both male and female, aged 8 and 6, were at substantial risk of sexual abuse. (*Id.* at pp. 88-89.)

In *In re P.A.* (2006) 144 Cal.App.4th 1339, Division Three of our court held that a father who twice touched his nine-year-old daughter’s vagina under her clothes and on top of her underwear reasonably could be found to pose a risk of sexual abuse to the victim’s younger brothers who “were approaching the age at which father had begun to abuse [his daughter].” (*Id.* at pp. 1345-1348.)

In *In re Andy G.* (2010) 183 Cal.App.4th 1405, this Division affirmed findings that a 2-year-old boy was at risk of sexual abuse where the boy’s father sexually abused the boy’s 12-year-old and 14-year-old half sisters. In affirming the risk-of-abuse finding as to the father’s son, we noted that the father had exposed himself to his stepdaughter in his son’s presence, and that the father had used his son to gain access to his stepdaughter, all of which inferentially supported a finding that father had no concern for causing his son to witness aberrant sexual behavior. (*Id.* at pp. 1414-1415.) We also noted that father was resisting sexual abuse counseling for perpetrators. (*Id.* at p. 1415.)

In *In re Maria R.* (2010) 185 Cal.App.4th 48, the Fourth District Court of Appeal ruled that, in the absence of evidence (e.g., a scientific study) showing that a person who would sexually abuse a female child is likely to sexually abuse a male child, a finding of such a likelihood was not supported by substantial evidence unless there was evidence in the record tending to show the perpetrator had demonstrated an interest in male children. (*Id.* at pp. 61-68.)

Analysis

Here, the juvenile dependency court found, “This particular case is quite heinous, . . . with who was violated in the home, how they were violated, the extent to which they were violat[ed], and the fact . . . that all of these younger children and the grandmother all lived in the same home with the mother and [Father].” Father’s arguments do not persuade us to disturb the juvenile dependency court’s jurisdictional finding of risk to Father’s own infant son.

In our assessment, Father’s current case most closely fits the *Karen R.* model (*Karen R.*, *supra*, 95 Cal.App.4th 84) in that Father’s conduct has been “so sexually aberrant” to support the common sense conclusion that every person in the family home was at risk of sexual abuse. Given the opportunities, Father raped the grandmother more than once. Given the opportunities, he regularly committed sexually assaultive acts on eight-year-old J.C. The sexual assaults occurred when Mother was not accessible. The evidence, fairly summarized, established that Father is an insatiable sexual deviant. Further, that in the absence of Mother, any person available became an appropriate target. Father’s arguments on appeal do not persuade us that more evidence was needed to sustain the lower’s court’s jurisdiction over him and his infant son.

The evidence showed that, upon receiving the initial referral, DCFS dispatched a social worker who conducted a series of interviews. J.C. reported that Father sexually abused her several times, including forcibly penetrating her vagina and anus with his penis, squeezing and licking her breasts, and kissing her on the mouth. The first incident happened when Mother was in the hospital giving birth to Ivan. Father sexually abused J.C. on more than one occasion while Mother was taking A.C. to the school bus stop in the mornings. J.C. said that, during one incident, Father looked as if he were going to hit her if she did not comply. When she told him that it hurt, he told her to be quiet.

C.P., the maternal grandmother, reported that Father had also raped her twice. The first incident occurred when Maria was pregnant with Ivan; the second when Mother was in the hospital to deliver Ivan. It was around this time that J.C. told her that Father had raped her too. The grandmother confirmed that J.C. had told Mother what Father had

done to her and “none of us said anything because we were afraid that our kids would be taken away.”

Mother reported that Father had told her that he had a problem and was going to go to counseling to get help. Father had been arrested and was in custody. A detective reported to the social worker that Father had confessed to raping the maternal grandmother and J.C. When the social worker tried to interview Father, he said he could not talk for fear of incriminating himself, but denied he had done anything wrong as to J.C. and C.P.

The full complement of evidence in this case supports the juvenile dependency court’s conclusion that Father posed a risk of sexual abuse to his own son. The record reasonable supports the conclusion that, if given an opportunity, that is, if left alone, Father would seek sexual gratification from his infant son.

DISPOSITION

The juvenile dependency court’s jurisdictional findings and orders issued on May 17, 2011 are affirmed.

BIGELOW, P. J.

We concur:

FLIER, J.

GRIMES, J.